

Congress of the United States
House of Representatives
Washington, DC 20515

February 26, 2018

The Honorable Kirstjen M. Nielsen
Secretary of Homeland Security
Washington, D.C. 20528

Dear Secretary Nielsen:

On January 9, I wrote to you requesting reconsideration of the numerical limits for the Commonwealth-Only Transitional Worker (CW) classification you had set for Fiscal Years 2018 and 2019. My goal was to minimize the adverse economic and fiscal effects of these limits on the Northern Mariana Islands, while Congress worked on a legislative solution to the continuing labor needs of the islands' economy.

Today, I write to report on the significant progress made toward that legislative solution in the form of the bipartisan Northern Mariana Islands U.S. Workforce Act, which has been introduced as S. 2325 and H.R. 4869 and which had a hearing before the Senate Energy and Natural Resources Committee on February 6. In light of this progress and with the CW application period for Fiscal Year 2019 soon approaching, I respectfully ask that you adjust the FY 2019 cap to 9,997, consistent with the requirements of existing law. Alternatively, I request that applications that would otherwise be returned because of the current FY 2019 cap of 4,999, instead be racked, pending the outcome of the bill.

At the hearing, Assistant Secretary for Insular and International Affairs Doug Domenech, submitted testimony on behalf of the Administration, recognizing that access to labor was key to sustaining economic growth in the Marianas and, also, affirming the Administration's policy that employing American citizens, wherever possible, is the priority.

The Northern Mariana Islands U.S. Workforce Act, addresses both of these concerns. While it assures sufficient labor by resetting the CW numerical limit to match FY 2017, the bill also requires a reduction of the limit by 500 each year, a specific reduction missing from the original law that created the CW program. This certain reduction is intended to encourage the replacement of foreign workers in the Marianas labor force with U.S. workers, a trend that the Government Accountability Office has reported to be occurring, but which cannot be completed by the end of 2019 without significant economic disruption.

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The U.S. Workforce Act contains additional program reforms intended to incentivize the hiring of U.S. workers and increase the difficulty of bringing foreign workers into the labor force. Prior to applying for a CW permit, an employer will be required to prove there is no U.S. worker available for a job by obtaining a Foreign Labor Certification from the U.S. Department of Labor. To verify that CW workers are not unfairly competing with U.S. workers, employers will be required to submit quarterly reports verifying their foreign workers are fully employed and paid. As Secretary of Homeland Security, you would be authorized to revoke CW permits held by employers not in compliance or who breach any other federal labor law or regulation.

To ensure the continued increasing availability of U.S. workers, the U.S. Workforce Act places new requirements on the use of training fees paid by CW employers. The Commonwealth government, which is the recipient of the fees, will be required to submit an expenditure plan for their use with specific targets for the resulting employment of U.S. workers. The U.S. Department of Labor would have to approve the annual plan before any funds are released. And the Commonwealth would be required to report back on whether the targets had been met, so that subsequent expenditure plans could be made more effective.

Lastly, I would note that your Department has been invited to provide technical assistance in the upcoming days to those of us who drafted the U.S. Workforce Act. I expect that the Department's ideas will be well received and that a further iteration of the Act will result from your input.

In his testimony, Assistant Secretary Domenech, also, professed the Administration's commitment to working with the Marianas to ensure robust and healthy economic growth. Adjusting the Fiscal Year 2019 limit to 9,997, as I am requesting, or racking CW petitions until Congress concludes its work on the Northern Marianas U.S. Workforce Act would support that commitment. I urge action on this request before the FY 2019 application period begins in April.

Thank you for your time and attention. Please let me know if you have any questions. Your staff may also contact my Chief of Staff, Bob Schwalbach, at 202-225-2646 or via email at bob.schwalbach@mail.house.gov.

Sincerely,



GREGORIO KILILI CAMACHO SABLÁN
Member of Congress